

# GREER, HERZ & ADAMS, L.L.P.

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

ANGIE OLALDE



2525 South Shore Blvd., Suite 203  
League City, Texas 77573  
409.797.3262  
866.422.4406 fax  
aolalde@greerherz.com  
www.greerherz.com

April 19, 2023

Honorable Andrew Edison  
United States District Court  
for the Southern District of Texas  
601 Rosenberg Ave., Room 613  
Galveston, Texas 77550

RE: No. 3:22-cv-0057; *Terry Petteway, et al v. Galveston County, et al.*

Dear Judge Edison:

The parties have agreed to postpone Commissioner Holmes' deposition that was scheduled for tomorrow until after we receive a ruling on his withholding documents. We do not have a date certain for his deposition at this time.

Following are answers to the Court's questions in its Order (Dkt. 138). There are some important facts related to this matter. First, no individual commissioners were sued or served in this case, officially or individually. The "Commissioners Court" was served in the Department of Justice's case, along with the "County" and Judge Mark Henry, in his official capacity, but no commissioners have been named, officially or individually, in any of the consolidated actions. Undersigned counsel represents the Defendants. When opposing counsel subpoenaed the individual commissioners early in the case, they excluded Commissioner Holmes from those subpoena requests. Nevertheless, Defendants' counsel undertook to gather all County materials in possession of the County, as well as making requests to County officials for personally held materials, and produced all responsive materials. Counsel received no response from Commissioner Holmes to collect documents not under County control and had no contact with him until March of 2023 regarding the need for his deposition and any responsive documents. When efforts to obtain documents and set a deposition without process failed, Defendants issued the subpoena at issue here. Commissioner Holmes was also offered his own lawyer, which he has engaged at the County's expense. Defendants' Counsel need to obtain relevant documents from Commissioner Holmes and to depose him. There is no other way to obtain this information at this point than by asking for the Court's assistance.

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1. All other commissioners have searched for and produced any responsive documents to Plaintiffs' requests in response to Plaintiffs' First Requests for Production, which asked Defendants to search and produce documents from any Defendant or Commissioner.
  - a. Early in the written discovery process, the parties' counsel met and conferred regarding search terms and custodians, and methods for production (including a rolling production of documents). Plaintiffs' counsel sent broad requests for production, and then subpoenaed all commissioners in their official capacities and the County Judge—but not **Commissioner Holmes**.
  - b. Defense counsel agreed to request that **all** commissioners and the County Judge search their personal accounts/devices for responsive information in lieu of proceeding with subpoenas; Defense counsel made this request of all identified Commissioners and Defense deponents in this case. Additionally, during deposition preparation, counsel for defendants once again confirmed with deponents that they had conducted these searches and produced any relevant information. Defense counsel was not advised by Commissioner Holmes that any documents were being withheld until receiving objections to the subpoena on April 13, 2023.
2. Commissioner Holmes accepted service of the subpoena on March 24th. Defense counsel requested that all County officials/employees preserve relevant documents on December 9, 2021. Defense counsel asked all Commissioners to search their personal devices/email for responsive information on October 11, 2022 and October 22, 2022. Defense counsel reached out to Commissioner Holmes about scheduling his deposition on March 14th and 17th (both times asking whether he would like separate counsel for the deposition), and on the 22nd and 24th before he agreed to accept service.
3. Commissioner Holmes' attorney Randy Howry agreed to accept service of an updated subpoena (changing the date to April 20th) on Wednesday, April 5th (after he had spoken with **Plaintiffs'** counsel about the subpoena late in the week beforehand).
4. Defense counsel has not represented Commissioner Holmes in his individual capacity. Defense counsel represents the County (and the Commissioners act for the County). Litigation counsel has had only limited communications with Commissioner Holmes to coordinate his deposition beginning in March 2023 (counsel asked for documents responsive to Plaintiffs' requests for production in

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October 2022, with no response from Commissioner Holmes). Counsel will provide those emails to the Court separately pursuant to the Court's Order.

5. Because there has been no individual representation, there is no need for a conflict waiver in that capacity. Commissioner Holmes is not a named defendant in this case. In his official capacity as a Commissioner of the County, Commissioner Holmes shares the same obligations as the County and other Commissioners do, so there is no conflict of interest requiring a waiver. He is also precluded by oath and law from being interested (directly or indirectly) in a claim against the County. Tex. Loc. Gov't Code § 81.002(a). Additionally, Commissioner Holmes has chosen not to have substantive communications with Defense counsel in this case. Instead, Defendants now understand he has been in communication with counsel for the Plaintiffs in this case since at least December 2021. *See* Exhibit 1 (USA Amended Privilege log, emphasis added).

To provide a defense at trial, Defendants need a deposition of Commissioner Holmes, and any relevant documents in his possession. There is no other way to obtain this information at this point than by asking for the Court's assistance.

Sincerely,

*/s/ Angie Olalde*

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served to all counsel of record via the Court's electronic filing service on April 19, 2023.

*/s/ Angie Olalde*\_\_\_\_\_

# **Exhibit 1**

*Petteway v. Galveston County, Texas*, No. 3:22-cv-57 (S.D.Tex.)  
*Dickinson Bay Area NAACP v. Galveston County, Texas*, No. 3:22-cv-93 (S.D.Tex.)  
*United States v. Galveston County, Texas*, No. 3:22-cv-117 (S.D.Tex.)

**Updated Privilege Log for United States' Response to Defendants' First Set of Requests for Production  
March 15, 2023**

Key: AWP = Attorney Work Product Privilege  
TPM = Rule 26(b)(3)(A) Trial Preparation Materials

BEGDOC	ENDDOC	Privilege Asserted	Document Description	From/Author	To/Recipient	Date
US0002492	US0002495	AWP/TPM	Attorney notes and mental impressions of interview with Mark Salinas conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/19/2022
US0002496	US0002497	AWP/TPM	Attorney notes and mental impressions of interview with Paul Bland conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/21/2022
US0002498	US0002511	AWP/TPM	Attorney notes and mental impressions of interview with Stephen Holmes conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Meza, Newkirk, Jayaraman, Wake.	File	12/28/2021
US0002512	US0002515	AWP/TPM	Attorney notes and mental impressions of interview with Nakisha Paul conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Jayaraman.	File	4/21/2022
US0002516	US0002518	AWP/TPM	Attorney notes and mental impressions of interview with Henry Gomez conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Jayaraman.	File	4/21/2022
US0002519	US0002522	AWP/TPM	Attorney notes and mental impressions of interview with Joe Compian conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/16/2022
US0002523	US0002523	AWP/TPM	Attorney notes and mental impressions of interview with Lillie A. Aleman conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	2/23/2022
US0002524	US0002525	AWP/TPM	Attorney notes and mental impressions of interview with Cornelia Banks conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/1/2022
US0002526	US0002527	AWP/TPM	Attorney notes and mental impressions of interview with Paul Bland conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	2/23/2022
US0002528	US0002530	AWP/TPM	Attorney notes and mental impressions of interview with Tommie D. Boudreaux conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	2/22/2022
US0002531	US0002531	AWP/TPM	Attorney notes and mental impressions of interview with Anna Charles conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/10/2021

BEGDOC	ENDDOC	Privilege Asserted	Document Description	From/Author	To/Recipient	Date
US0002532	US0002532	AWP/TPM	Attorney notes and mental impressions of interview with Andre Perkins conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	4/13/2022
US0002533	US0002533	AWP/TPM	Attorney notes and mental impressions of interview with Monica Cooper conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/23/2021
US0002534	US0002535	AWP/TPM	Attorney notes and mental impressions of interview with Edna Courville conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Newkirk.	File	12/10/2021
US0002536	US0002543	AWP/TPM	Attorney notes and mental impressions of interview with Patrick Doyle conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s)	File	12/17/2021
US0002544	US0002544	AWP/TPM	Attorney notes and mental impressions of interview with Dr. Annette Jenkins conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/23/2022
US0002545	US0002545	AWP/TPM	Attorney notes and mental impressions of interview with Edward Munoz conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	2/18/2022
US0002546	US0002546	AWP/TPM	Attorney notes and mental impressions of interview with Brenda Flanagan conducted in preparation for litigation.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/16/2022
US0002547	US0002548	AWP/TPM	Attorney notes and mental impressions of interview with Tierr'ishia Gibson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/9/2021
US0002549	US0002550	AWP/TPM	Attorney notes and mental impressions of interview with Tierr'ishia Gibson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	2/18/2022
US0002551	US0002551	AWP/TPM	Attorney notes and mental impressions of interview with Geraldine Glover Dorsey conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/23/2021
US0002552	US0002554	AWP/TPM	Attorney notes and mental impressions of interview with Heidi Gordon conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	12/21/2021
US0002555	US0002557	AWP/TPM	Attorney notes and mental impressions of interview with Heidi Gordon conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear/Wake.	File	1/20/2022
US0002558	US0002558	AWP/TPM	Attorney notes and mental impressions of interview with Bernice Hall conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear/Wake.	File	12/29/2021
US0002559	US0002560	AWP/TPM	Attorney notes and mental impressions of interview with Roxy H. Williamson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	12/9/2021
US0002561	US0002561	AWP/TPM	Attorney notes and mental impressions of interview with Ted Hanley conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/16/2022

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US0002562	US0002562	AWP/TPM	Attorney notes and mental impressions of interview with James Henderson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/27/2021
US0002563	US0002563	AWP/TPM	Attorney notes and mental impressions of interview with Keith Henry conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/23/2022
US0002564	US0002565	AWP/TPM	Attorney notes and mental impressions of interview with Felix Herrera conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	2/23/2022
US0002566	US0002566	AWP/TPM	Attorney notes and mental impressions of interview with Stephen Holmes conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Wake.	File	12/22/2021
US0002581	US0002587	AWP/TPM	Attorney notes and mental impressions of interview with Teresa Hudson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/1/2022
US0002588	US0002590	AWP/TPM	Attorney notes and mental impressions of interview with Sam Collins III conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	9/28/2022
US0002591	US0002592	AWP/TPM	Attorney notes and mental impressions of interview with Corlie Jackson conducted in preparation for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	12/22/2021
US0002593	US0002595	AWP/TPM	Attorney notes and mental impressions of interview with Keith Henry conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Newkirk.	File	9/26/2022
US0002597	US0002598	AWP/TPM	Attorney notes and mental impressions of interview with Winifred Langham conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	12/9/2021
US0002599	US0002599	AWP/TPM	Attorney notes and mental impressions of interview with Wanda Lartigue conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/27/2021
US0002600	US0002603	AWP/TPM	Attorney notes and mental impressions of interview with Fidencio Leija conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	8/30/2022
US0002604	US0002605	AWP/TPM	Attorney notes and mental impressions of interview with Lucretia Lofton conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	12/9/2021
US0002606	US0002607	AWP/TPM	Attorney notes and mental impressions of interview with Lucretia Lofton conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	1/19/2022
US0002608	US0002611	AWP/TPM	Attorney notes and mental impressions of interview with Lucille McGaskey conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	9/29/2022
US0002612	US0002613	AWP/TPM	Attorney notes and mental impressions of interview with Mary Patrick conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	2/17/2022



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US0002614	US0002615	AWP/TPM	Attorney notes and mental impressions of interview with Dedrick Johnson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	2/26/2022
US0002616	US0002617	AWP/TPM	Attorney notes and mental impressions of interview with Evelyn McDaniel conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Wake.	File	12/13/2021
US0002618	US0002619	AWP/TPM	Attorney notes and mental impressions of interview with Lilian Macgrew conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	3/23/2022
US0002620	US0002621	AWP/TPM	Attorney notes and mental impressions of interview with Cornelia Banks conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	3/3/2022
US0002622	US0002622	AWP/TPM	Attorney notes and mental impressions of interview with Kim Yancy conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Wake.	File	1/20/2022
US0002623	US0002623	AWP/TPM	Attorney notes and mental impressions of interview with Leonora Mendez conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Wake.	File	12/23/2021
US0002624	US0002624	AWP/TPM	Attorney notes and mental impressions of interview with Kim Milstead conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	2/17/2022
US0002625	US0002625	AWP/TPM	Attorney notes and mental impressions of interview with Karen Murphy conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/27/2021
US0002626	US0002627	AWP/TPM	Attorney notes and mental impressions of interview with Judith Oppenheim conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/27/2021
US0002628	US0002631	AWP/TPM	Attorney notes and mental impressions of interview with Felix Herrera conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	4/20/2022
US0002632	US0002641	AWP/TPM	Attorney notes and mental impressions of interview with Joe Compian, Magdalena Alvarado, and Mary Longoria conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear, Newkirk.	File	4/22/2022
US0002642	US0002642	AWP/TPM	Attorney notes and mental impressions of interview with Tom Watkins conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	12/10/2021
US0002643	US0002644	AWP/TPM	Attorney notes and mental impressions of interview with Mikal Williams conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	3/11/2022
US0002645	US0002646	AWP/TPM	Attorney notes and mental impressions of interview with Ann Willis conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear.	File	3/22/2022
US0002647	US0002649	AWP/TPM	Attorney notes and mental impressions of interview with Bryan-Keyth Wilson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Wake.	File	4/22/2022



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US0002650	US0002651	AWP/TPM	Attorney notes and mental impressions of interview with Kim Yancy conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	9/30/2022
US0002652	US0002652	AWP/TPM	Attorney notes and mental impressions of interview with Veronica V. Horn conducted for litigation purposes.	Voting Section Attorney(s)/Analyst Gear, Newkirk, Wake.	File	11/24/2021
US0002653	US0002657	AWP/TPM	Attorney notes and mental impressions of interview with Keith Henry conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/20/2022
US0002658	US0002661	AWP/TPM	Attorney notes and mental impressions of interview with Kim Yancy conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/19/2022
US0002662	US0002663	AWP/TPM	Attorney notes and mental impressions of interview with Dora Porter conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Newkirk.	File	1/10/2022
US0002664	US0002664	AWP/TPM	Attorney notes and mental impressions of interview with Elizabeth Protas conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/23/2021
US0002665	US0002666	AWP/TPM	Attorney notes and mental impressions of interview with Robert Quintero conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	2/24/2022
US0002668	US0002673	AWP/TPM	Attorney notes and mental impressions of interview with Lucille McGaskey conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/21/2022
US0002674	US0002674	AWP/TPM	Attorney notes and mental impressions of interview with Mandalyn Salazar conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	12/22/2021
US0002675	US0002676	AWP/TPM	Attorney notes and mental impressions of interview with Mark Salinas conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	12/21/2021
US0002677	US0002678	AWP/TPM	Attorney notes and mental impressions of interview with Betsy Sanchez conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/9/2021
US0002679	US0002679	AWP/TPM	Attorney notes and mental impressions of interview with Jerry Lee conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	3/23/2022
US0002680	US0002681	AWP/TPM	Attorney notes and mental impressions of interview with Ethel Shelton conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Newkirk.	File	12/9/2021
US0002682	US0002682	AWP/TPM	Attorney notes and mental impressions of interview with Barbara Taylor conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/10/2021
US0002683	US0002684	AWP/TPM	Attorney notes and mental impressions of interview with Kerry Tillmon conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear.	File	11/22/2021

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US0002685	US0002687	AWP/TPM	Attorney notes and mental impressions of interview with Sharon B. Lewis conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	9/27/2022
US0002688	US0002690	AWP/TPM	Attorney notes and mental impressions of interview with Kerry W. Tillmon and Tarris Woods conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/18/2022
US0002691	US0002695	AWP/TPM	Attorney notes and mental impressions of interview with Roxy H. Williamson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/19/2022
US0002696	US0002700	AWP/TPM	Attorney notes and mental impressions of interview with Sharon Lewis and Anthony Griffin conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/19/2022
US0002701	US0002705	AWP/TPM	Attorney notes and mental impressions of interview with Tierr'ishia Gibson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/20/2022
US0002717	US0002720	AWP/TPM	Attorney notes and mental impressions of interview with Dedrick Johnson conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/20/2022
US0002721	US0002730	AWP/TPM	Attorney notes and mental impressions of interview with Mary Patrick, Ruth Declouet, Annette Scott, Nan Wilson, and Leon Phillips conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/18/2022
US0002731	US0002732	AWP/TPM	Attorney notes and mental impressions of interview with Heidi Gordon and John Young conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Gear, Newkirk.	File	4/22/2022
US0002754	US0002756	AWP/TPM	Attorney notes and mental impressions of interview with Mary Patrick conducted for litigation purposes.	Voting Section Attorney(s)/Analyst(s) Wake.	File	12/20/2021